



United States Department of the Interior

FISH AND WILDLIFE SERVICE
South Florida Ecological Services Office
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Vero Beach, Florida 32960



November 20, 2019

Andrew D. Kelly, Colonel
U.S. Army Corps of Engineers
Post Office Box 4970
Jacksonville, Florida 32232-0019

Service Consultation Code: 04EF2000-2020-F-0064
Date Received: October 23, 2019
Consultation Initiation Date: October 31, 2019
Project: Lake Worth and Port Everglades
Inlet Jetty Maintenance
Applicant: U.S. Corps of Engineers
County: Palm Beach and Broward

Dear Colonel Kelly:

This document transmits the U.S. Fish and Wildlife Service's (Service) decision document to the U.S. Army Corps of Engineers (Corps) for repair and maintenance of the Lake Worth Inlet north jetty and the Port Everglades south jetty in Palm Beach and Broward counties, Florida, respectively (Project). The Corps determined that the Project may affect, and is likely to adversely affect the threatened North Atlantic Distinct Population Segment (DPS) of the green sea turtle (*Chelonia mydas*), the endangered hawksbill sea turtle (*Eretmochelys imbricata*), the endangered Kemp's ridley sea turtle (*Lepidochelys kempii*), the endangered leatherback sea turtle (*Dermochelys coriacea*), and the threatened Northwest Atlantic Ocean DPS of the loggerhead sea turtle (*Caretta caretta*); and may affect, but is not likely to adversely affect the threatened piping plover (*Charadrius melodus*), the threatened red knot (*Calidris canutus rufa*), and the threatened West Indian manatee (*Trichechus manatus*; manatee). For the purposes of this document, the five identified sea turtles will be referred to collectively as sea turtles. This document is provided in accordance with section 7 of the Endangered Species Act of 1973, as amended (Act) (87 Stat. 884; 16 U.S.C. 1531 *et seq.*).

The Service and the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NOAA Fisheries) share Federal jurisdiction for sea turtles under the Act. The Service has responsibility for sea turtles on the nesting beach and the NOAA Fisheries has jurisdiction for sea turtles in the marine environment. Our analysis in this document will only address activities that may impact nesting sea turtles, their nests and eggs, and hatchlings as they emerge from the nest and crawl to the sea. Please note the provisions of this consultation do not apply to sea turtles in the marine environment, such as swimming juvenile and adult sea turtles or loggerhead critical habitat in the marine environment. If applicable, you are required to consult with the NOAA Fisheries on this Project. For further information on Act compliance with the NOAA Fisheries, please contact Karla Reece, Acting Chief of the Interagency Cooperation Branch, by e-mail at karla.reece@noaa.gov or by phone at 727-824-5348.

This analysis is based on information provided in the Corps' October 23, 2019, letter and additional correspondences with the Corps. A complete record of this consultation is on file at the South Florida Ecological Services Office; Vero Beach, Florida.

Consultation History

On October 23, 2019, the Service received a letter from the Corps dated October 23, 2019, requesting initiation of formal consultation concerning the repair and maintenance of the Lake Worth north jetty and the Port Everglades south jetty located in Palm Beach and Broward counties, Florida, respectively.

On October 31, 2019, the Service completed their review of the Project and initiated formal consultation with the Corps concerning the potential effects of the Project on nesting sea turtles, and informal consultation on piping plovers, red knots, and manatees.

DESCRIPTION OF THE PROPOSED ACTION

The Corps proposes to conduct repair and maintenance activities associated with two east coast inlet jetties, the Lake Worth Inlet north jetty and the Port Everglades south jetty in Palm Beach and Broward counties, respectively. The Project will require substantial moving and manipulation of new and existing stones to obtain the required interlocking within the tolerances provided. Stones to be manipulated will range from 6 to 14 tons with a specific weight of 165 pounds per cubic foot. All work will be conducted from the water only during daylight hours with no work, access, or staging conducted on the beach. In addition, all equipment will be stored off the beach and no travel corridors to and from the jetties will be located on the beach.

Project construction is expected to be completed by July and August 2020, for Lake Worth Inlet and Port Everglades Inlet, respectively, taking into account adverse weather and equipment delays. The intent of the Project is to repair and maintain the jetties.

Minimization measures and exceptions

The Corps will follow and implement the Conservation Measures, Reasonable and Prudent Measures (RPMs), and the Terms and Conditions identified in the revised *Statewide Programmatic Biological Opinion* (2015-SPBO; Service 2015), and the Conservation Measures of the *Programmatic Piping Plover Biological Opinion* (P³BO; Service 2013) that apply to the Project as it applies to sea turtles and piping plovers, respectively. The P³BO Conservation Measures will also minimize effects to red knots.

To minimize impacts to manatees from the Project, the Corps has agreed to follow and implement the Florida Fish and Wildlife Conservation Commission's (FWC) *Standard Manatee Conditions for In-Water Work* (FWC 2011), and the minimization measures outlined for manatees in the 2015-SPBO.

Action Area

The action area is defined as all areas to be affected directly or indirectly by the action and not merely the immediate area involved in the action. The Service identifies the action area to include the Lake Worth Inlet north jetty and the Port Everglades south jetty. The Project is located along the Atlantic Ocean, Palm Beach County, Florida, at latitude 26.773484 and longitude -80.031190; and Broward County, Florida, at latitude 26.092570 and longitude -80.106222.

THREATENED AND ENDANGERED SPECIES

Piping plover

The Service has determined the Project's impact to non-optimal piping plover habitat is consistent with the analysis in the P³BO. As previously stated, the Corps has agreed to follow and implement the Conservation Measures outlined in the P³BO that apply to the Project. As it relates to survey guidelines defined in P³BO Conservation Measure #2, the Service approves a reduction in the survey effort, and the following revised survey guidelines can be implemented by the Corps:

1. One preconstruction winter shorebird survey will be conducted within a 10-day timeframe beginning the first Friday in February, as outlined in the Florida Shorebird Alliance's Winter Shorebird Survey (<http://www.flshorebirdalliance.org/resources/instructions-manuals.aspx>). If the February preconstruction survey is not possible, two preconstruction winter shorebird surveys will be conducted as close as possible to the February dates and at least 15 days apart, and reported to the FWC and the Service. Preconstruction surveys will not be conducted between May 16 and July 14. If piping plovers are documented during the preconstruction survey, the Service will be contacted for potential implementation of additional conservation measures prior to construction commencement.
2. The person(s) conducting the surveys must demonstrate the qualifications and ability to identify shorebird species and be able to provide the information outlined in the Winter Shorebird Survey.

Because the Project, as proposed, is consistent with the analysis for non-optimal piping plover habitat in the P³BO, the Service concurs that the Project, as proposed, may affect, but is not likely to adversely affect this species.

Red knot

Red knots may use the Project area during winter and migration periods. In Florida, red knots are commonly found along sandy, gravel, or cobble beaches, tidal mudflats, salt marshes, shallow coastal impoundments, mangrove and brackish lagoons. Red knots forage along sandy beaches during spring and fall migration throughout Florida. To date, critical habitat has not been proposed or designated for the red knot. According to our Geographic Information System

database, no red knots were documented on the dry beach directly adjacent to either jetty. Because suitable habitat for the red knot and piping plover is similar, minimization measures for potential effects to red knots in non-optimal habitat will be incorporated into the Project through the Corps' implementation of the Conservation Measures to reduce impacts on piping plovers for projects located in non-optimal piping plover habitat as outlined in the P³BO.

Based on the implementation of P³BO's Conservation Measures and the fact that the proposed Project area is located in non-optimal red knot habitat, the Service concurs that the Project, as proposed, may affect, but is not likely to adversely affect this species.

Sea turtles

The Project is located adjacent to sea turtle nesting habitat, and therefore could adversely affect nesting sea turtles, their nests, and hatchlings. The purpose of the Project is to repair and maintain both the north Lake Worth Inlet and the south Port Everglades jetties.

The Service has determined the Project's effects concerning jetty repair and maintenance are consistent with those analyzed in the 2015-SPBO. Therefore, it is appropriate to apply the 2015-SPBO to the Project. That said, the Corps requested an exception to Term and Condition C1 of the 2015-SPBO which states that work not occur during the period of peak sea turtle egg laying and hatching (May 1 through October 31) in order to reduce the possibility of sea turtle nest burial, crushing of eggs, and nest excavation. Based on the Corps' commitment to implement the Conservation Measures, RPMs, and the Terms and Conditions identified in the 2015-SPBO that apply to the Project, and 1) all work will be conducted from the water, 2) no work, access, or staging will be conducted on the beach, 3) all work will be conducted only during daylight hours, 4) all equipment will be stored off the beach, and 5) no travel corridors to and from the jetties will be located on the beach, the Project's take coverage for listed sea turtles is henceforth covered under the 2015-SPBO.

West Indian manatee

The Project is located within the geographic range of the manatee, in the manatee consultation area, and in an important manatee area where approved observers are required. The Corps has agreed to follow and implement the *Standard Manatee Conditions for In-Water Work* (FWC 2011) and the minimization measures outlined for manatees in the 2015-SPBO to avoid potential effects to manatees. Based on the proposed protection measures, the Service concurs with the Corps' determination that the Project may affect, but is not likely to adversely affect the species.

REINITIATION NOTICE

This concludes consultation on the action outlined in the request. As provided in 50 CFR §402.16, reinitiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been retained (or is authorized by law) and if:

1. The amount or extent of incidental take outlined in the 2015-SPBO is exceeded. In instances where the amount or extent of incidental take is exceeded, any operations causing such take must cease pending reinitiation;
2. New information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this analysis;
3. The agency action is subsequently modified in a manner that causes an effect to a listed species or critical habitat not considered in this analysis; or
4. A new species is listed or critical habitat designated that may be affected by the action.

Thank you for your cooperation in the effort to conserve fish and wildlife resources. Should you have additional questions or require clarification regarding this letter, please contact Jeff Howe at 772-469-4283.

Sincerely yours,



Roxanna Hinzman
Field Supervisor
South Florida Ecological Services Office

cc: electronic only

Corps, Jacksonville, Florida (Paul DeMarco)

DEP, Tallahassee, Florida (Lainie Edwards)

EPA, Atlanta, Georgia (Duncan Powell)

FWC, West Palm Beach, Florida (Ricardo Zambrano)

FWC, Tallahassee, Florida (FWC-CPS, Kristen Nelson-Sella)

NOAA Fisheries, St. Petersburg, Florida (Mary Wunderlich)

Service, St. Petersburg, Florida (Anne Marie Lauritsen)

LITERATURE CITED

- Florida Fish and Wildlife Conservation Commission (FWC). 2011. Standard Manatee Conditions for In-Water Work 2011. Tallahassee, Florida [Internet]. [cited October 30, 2019]. Available from: http://myfwc.com/media/415448/Manatee_StdCondln_waterWork.pdf
- U.S. Fish and Wildlife Service (Service). 2013. Programmatic piping plover biological opinion to the U.S. Army Corps of Engineers (Service Log No. 04EF1000-2013-F-0124) for shore protection activities in the geographical region of the north and south Florida Ecological Services Field Offices (May 22, 2013). Jacksonville and Vero Beach Field Offices, Florida.
- U.S. Fish and Wildlife Service (Service). 2015. Statewide programmatic biological opinion to the U.S. Army Corps of Engineers (Service Log No. 41910-2011-F-0170) for shore protection activities along the coast of Florida (March 13, 2015). Jacksonville, Panama City, and Vero Beach Field Offices, Florida.